LETTERS

FROM

Mr. COMMISSIONER ROBINSON,

ON THE

CANADA TRADE,

AND

CANADA UNION BILLS,

COMMUNICATED BY THE

LIEUTENANT GOVERNOR,

January 22nd, 1823.

BY ORDER OF THE HOUSE OF ASSEMBLY.

Printed by CHARLES FOTHERGILL, Printer to the King's Most Excellent Majesty.

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(COPY.)

London, May 16th, 1822.

Sir,

I have the honor to report to you, for the information of His Excellency the Lieutenant Governor, that having arrived in London on Saturday the 22d March, I delivered at the Colonial Office on Monday the 24th March the letters and dispatches with which I was charged, and wrote to Earl Bathurst the letter marked (A.) Mr. Wilmot, the Under Secretary of State for the Colonies wrote immediately to request that I would call upon him the next day, which I did, and Earl Bathurst appointed Wednesday the 28th March for receiving the Address and Report of the Legislative Council and Assembly. I accordingly presented them on that day to his Lordship.

From that time I had repeated interviews with Mr. Wilmot, and on the 4th April addressed to him the letter marked (B,) and was requested to attend the next day at the Colonial Office, in company with Mr. Caldwell, the Receiver General of Lower Canada, and a Member of the Legislative Council there, and with Mr. Marshall, the Solicitor General of that Province, and I was desired to prepare the heads of a Bill, such as I conceived would provide fairly for adjusting the differences between the two Provinces, and submit it to those Gentlemen, that they might, on the part of Lower Canada, make such objections or remarks in writing as they might think proper. The late period of the Session of Parliament made it desirable that no time should be lost, and on the 7th April I delivered to Mr. Caldwell and Mr. Marshall the paper marked (C.)

Their remarks were submitted to my perusal, but no copy has been communicated to me. They did not indeed offer any material objection to the substantial provisions of the Bill I had proposed. Not long after, Mr. Caldwell shewed me the Resolutions which were passed in the Assembly of Lower Canada, at the close of their last Session, respecting the claims of Upper Canada, and which His Excellency has no doubt seen. In reply to the statements and positions advanced in these Resolutions, and also to the remarks made by Mr. Caldwell and Mr. Marshall, I addressed to Mr. Wilmot the letter marked (D.)

At the desire of Earl Bathurst, I also had fifty copies of the Report of the Legislature of Upper Canada with the Appendix printed, and placed them at his Lordship's disposal.

Having at the request of Earl Bathurst, and of Mr. Wilmot, been present at several conferences at the Colonial Office, in which the Union of the two Provinces, or rather of their Legislatures, was proposed and discussed, I communicated freely my opinions upon the probable consequences of such a measure, and gave information upon the several points to which I was interrogated.

That I might not be misunderstood I addressed a letter to Mr. Wilmot, (E.) communicating a statement of my sentiments upon the contemplated Union of the Legislatures, for the consideration of Earl Bathurst, with whom I had soon afterwards a personal interview on the subject, and His Majesty's Government having, after the fullest consideration, determined to propose to Parliament a Bill for giving a joint Legislature to the Canadas, I found I could not render a more effectual service to Upper Canada, after a determination had been come to upon this important measure, which I was neither instructed to solicit nor to oppose, than by using my best endeavors that the Union should be effected in such a manner as would most surely guard the interests of Upper Canada, and be most likely to promote its future welfare.

The Bill which has been prepared for that purpose is now under the consideration of the Law Officers of the Crown, and notice of it will be given in Parliament immediately. I will send it to you as soon as it is printed, and would transmit a manuscript copy now, but that it is uncertain of course, until the Law Officers have made their Report, whether it will be brought in in its present shape. I send you the heads shortly extracted, and I have reason to believe that the Bill will be passed during this Session, very nearly in its present form, as from various considerations unconnected with the financial questions between the two Provinces, the expediency of giving them an United Legislature seems so strongly impressed on the minds of all persons here, and His Majesty's Government, in particular, appears to consider it so desirable for many reasons, that I have little doubt an Union would have been

at all events proposed during the present Session of Parliament, and I cannot but consider myself fortunate to have had it in my power at so critical a moment to afford such information, and intercede for such provisions on the part of Upper Canada, as I hope will best secure its interests, and promote its prosperity under the great change contemplated.

I have the honor to be,
Sir,
Your most obedient,
Humble Servant,
JOHN B. ROBINSON.

To Major HILLIER,
Secretary to His Excellency Sir P. MAITLAND,
K. C. B. Lt. Governor &c. &c. &c.

COPY (A.)

56 Gower Street, Bedford Square.
March 24th, 1822.

MY LORD,

I have the honor to acquaint your Lordship, that having been commissioned by His Excellency the Lieutenant Governor of Upper Canada to present to His Majesty a joint Address of the Legislative Council and House of Assembly of that Province, upon the subject of its financial relations with Lower Canada, I shall be happy to have the honor of waiting upon your Lordship with the same, at any time your Lordship may think proper to appoint.

I had also committed to my charge several dispatches and letters of Sir Peregrine Maitland to your Lordship, which together with the Rolls of the last Session of the Legislature of Upper Canada, I have left at your Lordship's Office.

I have the honor to be,
My Lord,
Your Lordship's
Most obedient humble Servant,
JOHN B. ROBINSON.

To the Rt. Honorable
The Earl BATHURST,
&c. &c. &c.

COPY (B.)

LONDON, 56 Gower Street,
April 4th, 1822

SIR,

In the different interviews with which you have so obligingly honored me, the contemplated provision for regulating generally the commerce of the Canadas have come alone into discussion. These are of a nature deeply interesting to both Provinces, and the principles on which they are founded clearly manifest the most indulgent and liberal spirit on the part of His Majesty's Government towards the Colonists. No duty can be more pleasing to me as an inhabitant of Upper Canada, than to give any information, and contribute any assistance in framing these provisions, which my knowledge of its local interests may enable me. At the same time I cannot forbear to represent, that a Bill of the kind proposed would go a very little way in removing any of the difficulties in which Upper Canada is at present involved with respect to its Revenue, and would not apply at all to some of the most material points on which its Legislature have now a second time most earnestly besought the interposition of His Majesty and the Imperial Parliament, as the only means of indemnity against the injuries which they represent the Province to have sustained from Lower Canada, and the only hope of protection against the recurrence of the evils to which it has been exposed by its state of dependence on the Legislature of another Colony.

I was unwilling to interrupt the consideration of the general measures under discussion, by pressing the particular points last alluded to, till time had been afforded you to give the necessary attention to the Address and Report which I had the honor of submitting through Earl Bathurst to the gracious consideration of His Majesty, nor should I do so now, but that I am desirous you should bear these subjects in mind either as connected with, or distinct from the proposed Bill, in time to avail yourself of every information which the discussion of that Bill may afford you an opportunity of obtaining.

I need not at present recapitulate the different subjects on which the Legislature of Upper Canada have prefered their petition to His Majesty, looking anxiously but confidentially forward to the just interposition of His Majesty and the Imperial Parliament in adjusting its financial relations with Lower Canada as the only means of rescuing its Government from the immediate disgrace of a Public Bankruptcy, and of providing for its future support; they are fully and explicitly stated in the report which accompanies the address, and their proof rests principally on matters of public record, and on other documents to which that report expressly refers.

I shall be happy to attend at whatever time you may do me the honor to appoint, to give any additional explanation.

I have the honor to be, &c.
(Signed) JOHN B. ROBINSON.

To R. WILMOT, Esq.
His Majesty's Under Secretary of State, for the Colonies, &c. &c.

(C.)

Clauses for adjusting the present claims of Upper Canada on the Lower Province, and providing for the future regulation of the intercourse between the two Provinces, proposed to be inserted in the Canada Bill, after the clauses for the general regulation of the Canada Trade.

And whereas since the division of the Province of Quebec into the Provinces of Upper and Lower Canada, divers regulations have from time to time been made by agreement entered into under the authorities of Statutes passed by the Legislatures of the said two

Provinces respectively, concerning the imposing of duties upon articles imported into the Port of Quebec in the Province of Lower Canada, and the payment of drawbacks of such duties to the Province of Upper Canada, on account of the proportion of goods so imported into Quebec, and passing from thence into the said Province of Upper Canada, the last of which agreements expired on the 1st day of July, 1819. And whereas it appears by the Report of the Commissioners last appointed on behalf of both Provinces to treat for the purpose aforesaid, that the Province of Upper Canada claims certain arrearages from the Province of Lower Canada for drawbacks of divers duties levied under Acts of the Parliament of Great Britain, and of the said Province of Lower Canada, on goods and commodities entered at the Port of Quebec, and afterwards imported into the Province of Upper Canada, and consumed therein, which claim is not admitted on the part of the Province of Lower Canada. And it further appears by the said Report that the Commissioners last appointed for the purposes aforesaid have failed in establishing any regulation for the future, by reason that they could not agree upon the proportion of duties to be paid to Upper Canada by way of drawback on the goods consumed therein. For remedy of the inconvenience occasioned thereby, and for the satisfactory investigation, and adjustment of the said claims. Be it enacted, &c. that it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of each of the said Provinces of Upper and Lower Canada respectively, so soon as conveniently may be after the passing of this Act to appoint by Commission under the Great Seal of their respective Province one Arbitrator who together with a third Arbitrator to be named and appointed inlike manner by the Governor, Lieutenant Governor, or Person Administering the Governmentof the Province of (Nova Scotia, or New Brunswick,) and to be a subject of His Majesty inhabiting the said Province of Nova Scotia, &c. shall have power to hear and determine all claims of the Province of Upper Canada, upon the Province of Lower Canada, under the several agreements heretofore subsisting between the said two Provinces since the division of the Province of Quebec, and alledged to be unperformed, according to the fair understanding and construction of the said Agreements and also all claims of the said Province of Upper Canada, on account of any matter not embraced within the same.

Add clauses—That the opinion of the majority shall decide.

That if either of the arbitrators appointed for Upper or Lower Canada fails to attend on due notice being given for that purpose, the other two may meet and determine.

Power to Administer Oaths,

To send for Witnesses.

Copies of the Award under the hands and seals of the Arbitrators to be transmitted to the Governors of Upper and Lower Canada, and to the Lords Commissioners of His Majesty's Treasury.

In case of death of either Arbitrator before decision, the Governor of the Province for which he was appointed may commission another.

The Commissioner from the Province of to be remunerated at the joint charge of the Provinces of Upper and Lower Canada in such amount as the Governor of that Province may appoint.

If any sum be awarded to be paid to Upper Canada, the Governor of Lower Canada, may issue his Warrant upon the Receiver General of Lower Canada in favor of the Receiver General of Upper Canada for the amount.

An appeal to lie to the Committee of the Honorable Privy Council for Trade and Plantations if either Province should be dissatisfied.
(I should not object to the last provision, but not desire it on the part of Upper Canada.)

And be it further enacted, &c. that of all duties which have been levied in the Province of Lower Canada since the 1st day of July 1819, upon any goods, wares, merchandize, or commodities imported by sea into the said Province of Lower Canada, and also of all duties which after the passing of this Act, and before the 1st day of January 1824, shall be levied in the Province of Lower Canada upon any goods, wares, merchandize, or commodities imported by sea into the said Province of Lower Canada, the Province of Upper Canada shall be entitled to have and receive one part as the proportion of duties arising and due to the Province of Upper Canada upon such importations.

And be it further enacted, &c. that the Governor, Lieutenant Governor, or Person Administering the Government of the Province of Lower Canada, shall and may issue his warrant forthwith in favor of the Receiver General of the Province of Upper Canada for such proportion of the duties received in the Province of Lower Canada before the passing of this Act, and shall and may on the first day of January, and the first day of July in each and every year thereafter, until after the said first day of January 1824, issue his warrant in like manner for the payment of such sum as may be then due on account of the said proportion.

And be it further enacted, &c. (clause for establishing the proportion to be paid after first January 1824, by arbitration upon the same principle as that for determining the question of arrears with an appeal to the Committee of Privy Council, or by the Lords of the Treasury or Privy Council, in the first instance on hearing the representations and evidence of both parties,
such proportions to be ascertained every *four* years.)

And whereas the division of the Province of Quebec into the two Provinces of Upper and Lower Canada, was intended for the common

benefit of His Majesty's Subjects residing within both of the newly constituted Provinces, and not in any manner to obstruct the intercourse, or prejudice the trade to be carried on by the inhabitants of any part of the said late Province of Quebec with Great Britain, or with other Countries, and it has accordingly been made a subject of mutual stipulation between the two Provinces in the several agreements which have heretofore subsisted, that the Province of Upper Canada should not impose any duties upon articles imported from Lower Canada, but would permit and allow the Province of Lower Canada to impose such duties as they might think fit upon articles imported into the said Province of Lower Canada, of which duties a certain proportion was by the said agreements provided to be paid to the Province of Upper Canada.

And whereas in consequence of the cessation of such agreements as above recited it is necessary to protect the Province of Upper Canada from any evils which might arise from the exercise of an exclusive control by the Legislature of Lower Canada, over the imports and exports into and out of the Port of Quebec. And it is further expedient in order to enable the said Province of Upper Canada, to provide with sufficient certainty for the support of its Civil Government, and for other permanent and necessary charges upon its Revenue to establish such control as may prevent the Legislature of Lower Canada from repealing suddenly and without affording to Upper Canada an opportunity of remonstrance, existing duties upon which the principal part of such Revenue may depend. Be it therefore enacted &c. that all and every the Duties which at the time of the expiration of the last agreement between the said Provinces of Upper and Lower Canada were payable under any Act or Acts of the Province of Lower Canada on the importation of any goods, wares, or merchandize into the Port of Quebec, shall be payable and levied until the Act or Acts imposing the same or any of them shall be repealed by an Act or Acts of the said Province of Lower Canada, and until such Act or Acts repealing such duties shall, after a copy of the same has been transmitted to the Governor of the Province of Upper Canada, be laid before both Houses of the Imperial Parliament, according to the forms and provisions contained in the Act of the Parliament of Great Britain, ch. 31, passed in the 31st year of His late Majesty's Reign, entitled &c. and the Royal assent thereto proclaimed within the Province of Lower Canada, according to the provisions of the said last mentioned Act.

And be it further enacted &c. That from and after the passing of this Act, no Act of the Legislature of the Province of Lower Canada, whereby any additional or other duties shall or may be imposed on articles imported by sea into the said Province of Lower Canada shall have the force of law, until the same shall have been laid before the Imperial Parliament as provided for in certain cases by 31 Geo. III. ch. 31, and his Majesty's assent thereto published by Proclamation in the said Province of Lower Canada, a copy of such Act having within from the passing of the same been transmitted to the Governor of the Province of Upper Canada.

Provided always nevertheless that it shall not be necessary to transmit any such Act to be laid before the Imperial Parliament, if the concurrence of the Province of Upper Canada therein shall be signified in the manner to be specified in *this* Act.

(Note accompanying the foregoing Draft.)

I have drawn up with as much connection as I could, in so short a time, the substance of the different provisions which I have already proposed on the part of Upper Canada.

To reduce them properly to detail will require more particular consideration, but the heads I have given will shew, I hope, with sufficient precision, the nature of the different enactments which appear to me necessary to place the two Provinces on a fair footing with respect to each other in matters of trade and revenue. It is impossible to say that in proceeding with the detail more eligible modes may not suggest themselves of attaining the same ends with equal justice to both Provinces, and it is very probable that additional precautions may be found necessary to give effect to the measures proposed, but I am willing to be understood that I have no intention to urge on behalf of Upper Canada any measure distinct in principle from those embraced in this sketch, unless it occurs to me in time to admit of my giving Mr. Caldwell notice of it before his departure.

(Signed) JOHN B. ROBINSON.

April, 7th 1822.

COPY (D.)

56 Gower Street, April 18th 1822.

Sir,

Mr. Caldwell has very politely directed my attention to the Courier Newspaper of Friday last, in which are some Resolutions passed by the Assembly of Lower Canada in their last Session respecting the questions between the two Provinces of Canada, on the subject of Revenue. "That the right of Upper "Canada with respect to goods, wares and "merchandize imported into Lower Canada, "or exported therefrom, consists only of a "right of passage through the said Province of "Lower Canada, or depends on conventional "arrangements between the two Provinces," is a position which, if admitted, would do nothing to obviate the difficulties which occasion the present embarrassments of Upper Canada, because, as far as respects the alteration of conventional arrangements, the very hardship complained of is that there is none in force to regulate the present, or to provide for the future intercourse between the two Provinces, that Lower Canada omitted thro' a period of nearly two years to appoint Commissioners to treat, and that when Commissioners were appointed for that purpose, they were not authorized, as they declared, to look into the past, and would accede to no terms which our Commissioners could

possibly concur in for the time to come; upon the remaining part of the Resolution, namely, the abstract position that Upper Canada has no other claim but to "a right of transit of "goods through the Lower Province," I beg to observe that Upper Canada has not only a right of transit, but of a *free* transit, that is, relieved from any duties which may have been imposed upon such goods, on their entrance into Lower Canada, and that such right has been uniformly recognized by every provisional agreement, since the division of the Provinces. It is conceived, indeed, that Upper Canada has even claims beyond this in respect of goods, which having paid a duty at Quebec under the 14th Geo.III. as well as under Provincial enactments, are consumed in neither Province, but are exported to the United States of America. These claims though of inferior moment, are urged in the Report which I have had the honor to present, and the reasons stated on which they are grounded. But if the claim of Upper Canada were confined to the right of free transit of such goods *as her inhabitants consume*, the express declarations of the last Commissioners appointed by Lower Canada would deprive her of that right, for they unequivocally declare, in writing, to our Commissioners, that "they will agree to "no other arrangement than that each Province "shall collect its own revenue, and that they will pay us no drawbacks." But the duties imposed by the 14th Geo. 3d, will continue to be levied on importations at Quebec, and no doubt the Legislature of Lower Canada will always add to these duties others of their own, therefore, if they will henceforth pay no drawbacks to Upper Canada, whatever revenue we should attempt to raise from European merchandize as it comes into our Province, can only be obtained by imposing duties *in addition* to those already levied on the same articles, when they arrived at thePort of Quebec, of which we are to receive no drawback, and over which we are to have no control.

Upon the remaining Resolutions I beg to remark that the claims of Upper Canada upon the Lower Province are grounded principally upon former provisional agreements, which it is contended have not been complied with, and proof is offered to substantiate claims under them to a very considerable amount. Lower Canada, on the other hand, denies, though not in positive terms, that such claims exist: it is submitted that Arbitrators can best decide this question. But it is moreover conceived that beyond these claims under agreements unperformed, there may exist others equally clear and just, which those agreements ought not to preclude, unless they are such as the Commissioners who formed those agreements were authorized to adjust, and did in fact consider.

The agreement entered into at Quebec on the 7th June 1817, between the Commissioners of Upper and Lower Canada, which by these resolutions is not recognized as valid, related only to the payment of a particular sum of £1585, on account of arrearages claimed by Upper Canada, and is wholly unimportant as to any question remaining now to be considered. It was so far sanctioned by the Legislature of Lower Canada that they passed an Act appropriating the sum to Upper Canada which was ascertained by that agreement, and I cannot conceive for what purpose a question is now raised about it, for it was but a portion of what is claimed, and was neither expressed, nor pretended to be in satisfaction of the claims of Upper Canada, but quite the contrary,

As to the assertion contained in the Resolutions, that the proportion of Goods imported into Lower Canada, and consumed in Upper Canada has materially diminished since the last agreement in 1817, it is fully met and particularly considered in the Report of the Legislative Council and Assembly of Upper Canada, and documents are appended to that report which clearly substantiate whatever is advanced in it on that head.

Upon the last resolution it is only necessary to observe that it could scarcely have been anticipated by Upper Canada, that the Legislature of the Lower Province would delay for so long a period the appointment of Commissioners to renew the consultation, and that after they had by that omission subjected us to so great inconvenience, it seemed not an unreasonable expectation that they would proceed to ascertain the proportion,by the means which had been last resorted to, rather than aggravate the evils of the delay by the unforeseen requisition of a mass of evidence of past transactions which no precaution or expense which Upper Canada could have employed, would have rendered satisfactory, and which it was well known, at the time it was demanded, could not possibly be obtained.—In truth, the attempt to take an account of all the goods which passed from the one Province into the other had been abandoned by both Provinces as impracticable, and it is not singular, that we had not, without the aid of the necessary Officers for that purpose, persevered in a system which it was found could not be carried into effect while those Officers existed, and which had been therefore discontinued.

It is true that the Commissioners of Upper Canada would not consent to the mode, proposed for ascertaining the proportion of duties to be paid since the expiration of the last agreement, because they represented and proved that that mode was impracticable and that the result could not be satisfactory. All this appears in the report of the last Commissioners, but I am enabled to shew that sufficient evidence was in fact collected by one of the Commissioners of Upper Canada in conjunction with one from Lower Canada to prove at least the rights to more than the propertion contended for, and in the face of that evidence such proportion was nevertheless refused.

I have only to add that these resolutions of the Assembly of Lower Canada are wholly silent on the most important point, and that with respect to the past claims of Upper Canada, they suggest no means, and hold forth no prospect of their adjustment, while nearly the whole

of our revenue for the three last years is detained in their Treasury. These resolutions it is also to be observed, were adopted by the Legislature of Lower Canada, after a knowledge of every point upon which the Province of Upper Canada has entreated the interposition of His Majesty, and the Imperial Parliament; for the Legislature of Upper Canada ed His Excellency Sir Peregrine Maitland nsmit to the Government of Lower Cana- or the information of the Legislature of that vince then in Session, a copy of the Address lis Majesty, and of the Report which I have l the honor to present to Earl Bathurst, and now that these papers were transmitted long fore these resolutions are stated to have been ssed.

The remarks made by Mr. Caldwell and Mr. larshall, upon some of the enactments proposd by me, for placing on a just footing the finanial concerns of the two Provinces, do not affect the most material of these provisions, and the points they involve are so particularly adverted to in the Report I have presented, and in this paper, that I need not at present urge any thing further upon them. I will only observe that nothing can be more mistaken than to deny the claim of Upper Canada to a just proportion of the duties levied under the British Statute of 14th Geo. 3d.

The Annual vote of the British Parliament pays only some specified salaries.—It defrays but a part and not the greater part, of the expense of administering Justice, and supporting the Civil Government within the Province of Upper Canada. How can it then be proposed that Upper Canada shall remain embarrassed from want of funds to meet these objects, while upon the articles she consumes, duties are paid at Quebec which are expressly appropriated to that purpose, but which it is now contended are to be wholly expended in Lower Canada.

If it should appear to you that any of the points urged by the Legislature of Upper Canada are in themselves questionable or are rendered so by any statements or arguments advanced on the other side. I shall be much obliged by having an opportunity afforded me of further explanation.

I have the Honor to be, &c.
JOHN B. ROBINSON.

To
R. WILMOT, Esquire,
Under Secretary of State for the Colonies, &c.

COPY (E.)

LONDON, 56 Gower Street,
April 23d. 1822.

SIR,

The measure of uniting the two Provinces of Canada, on which you did me the honor to confer with me in company with Mr. Osgoode and Mr. Ellice, and also with the Solicitor General of Lower Canada, is one of so great moment to those Colonies, and involves so many considerations, that I feel it due to myself to place before His Majesty's Government in writing what has occurred to me on the subject, though I should do little more than repeat what I have before stated in conversation. You will oblige me by laying before Earl Bathurst the paper which accompanies this letter, in which I have taken the liberty to state plainly such views of the subject as my acquaintance with the situation of Upper Canada, and my opinion of the interests and wishes of his Majesty's subjects there, lead me to entertain.

Having submitted to the consideration of Earl Bathurst, proposed measures for placing the two Canadas on a fair footing with respect to each other, without reference to any union of the two Provinces, and having now ventured to state explicitly my sentiments upon the expediency of such an Union, I have only to add, that I shall be most happy to afford any further information or explanation in my power, and that whatever course His Majesty's Government may determine to adopt upon consideration of the different measures proposed, I shall be equally ready to aid it by any service of mine which can be useful, entirely persuaded, both by the very liberal policy about to be extended to the Canadas with respect to their trade, and by the patient attention which has been given to the different points I am instructed to urge, that the prosperity of those Provinces is earnestly desired by His Majesty, and that no measure will be decided on but in the fullest conviction that it is the one most likely to ensure their security and welfare.

I have the Honor to be, &c.
(Signed) JOHN B. ROBINSON.

To
R. WILMOT, Esquire,
&c. &c. &c.

Considerations upon the expediency of giving an United Legislature to the two Provinces of Canada by an Act to be passed during the present Session.

The reasons which led to the division of the Province of Quebec, were that the Inhabitants of the two portions of the Province now forming Upper and Lower Canada differed in Language and Religion, and had been accustomed to different systems of Jurisprudence. These reasons remain not materially weakened in any respect, for, the accession to the population of Upper Canada by emigration since the division, has been almost entirely of persons strangers to the French Laws and language, and principally of the Protestant faith, while in Lower Canada the Inhabitants are at this moment in the proportion, it is stated, of 19 in 20 composed of Canadian French.

Whatever weight, therefore, was due to these arguments for a separation at the time it took place, is yet undiminished, and it may be added that the subsequent general dispersion of population through a territory, the extremes of which are from 12 to 1500 miles asunder, furnishes an argument of inconvenience against uniting them now under one Legislature, which

probably did not exist in a sufficient degree to form an inducement for the separation.

These circumstances, however, though entitled to consideration as materially affecting the welfare and convenience of the two Provinces, whose increase in population and opulence it is desirable to facilitate by giving to them the most convenient form of Government for their local wants, are none of them, it must be confessed, of that paramount nature that they ought to stand in the way of the proposed union if it be clear that such union is necessary to increase the value of those Colonies to the Mother Country, or to provide in the most effectual manner for their own security and welfare.

For my own part, I do not know in what manner any of those ends is expected to be answered by the proposed union. The Provinces have gone on hitherto advancing by very rapid strides in population and improvement; their Inhabitants well satisfied with the footing on which their Government was placed by the 31st Geo. 3d. c. 31, and sensible themselves of no evil or inconvenience growing out of the system established by that Statute, so far as my knowledge extends, except that within these few last years difficulties have arisen in adjusting the proportion of duties, and regulating the commercial intercourse between the two Provinces, which matters had hitherto been arranged by amicable agreement but which it has been now found necessary to refer to the decision of the Imperial Parliament, an exigency foreseen as the probable consequence of the separation when the 31st Geo. 3d. was passed, and for which a power of providing a remedy by the intervention of British Acts is in terms reserved by that Statute.

If, however, although the legal and constitutional right of the Imperial Parliament, to control both Provinces in these respects is undoubted, these differences between them with respect to their commercial and financial regulations cannot in point of fact be adjusted in any other manner than by an union of the Legislatures, that would, of itself, be a sufficient reason, for while these points are unsettled, the Governments and legislatures of both Provinces are subject to be involved in irritating discussions, which may tend to much evil, and, what is more immediately pressing, the Province of Upper Canada is absolutely unable for want of the funds which remain locked up in the treasury of Lower Canada, to pay her creditors, or to support the current expenses of her Government. But I must declare I see no reason for supposing that an Union of the Legislatures is required on this ground, for I submit, in the first place, that such an Union would by no means get rid of the principal point of disagreement,—the claims of Upper-Canada for the past. Those claims must necessarily remain, the amount must be ascertained and their payment to Upper-Canada provided for by some Act of the British Parliament, notwithstanding an Union, and, indeed, as far as respects the claims of Upper-Canada for Duties already received to her use, and to be expended, when paid, solely for her benefit, some difficulty as regards the exclusive appropriation of them, would be created by an Union. Then in regard to the future regulation of the intercourse between the two Colonies, the measures humbly prayed for on the part of Upper-Canada are such as it is conceived no reasonable objection can be urged against. At all events the Imperial Parliament can well judge of their expediency, and whether they are such as both Provinces ought to be content to acquiesce in, and if either Province be not patient under regulations exacted by a sense of Justice due to the other, it will then, I submit, be time, as far as the desired end is to remedy these difficulties, to project an Union as the only other method of attaining a necessary object.

Believing then, as I certainly do, that an Union is not absolutely necessary on this ground, it is next to be considered whether there is anything in the present situation of the two Provinces which calls for a measure so important in its nature, and which may be attended with circumstances of particular inconvenience to each. In remarking upon the inducements which occur to me, I can only speak hypothetically, for it may be that His Majesty's Government are induced to the contemplation of an Union by considerations of policy altogether different from those which present themselves to me. I know that the Legislature of Lower-Canada have refused to make provision for the expences of Administering Justice and supporting the Civil Government of their Province, in any other manner than by an Annual Vote, a system of proceeding to which His Majesty's Government object, as being contrary to the spirit of that Constitution of which they are ready to avail themselves of the privileges, and as placing every Officer of the Civil Government, even those entrusted with the Administration of Justice, in a state of the most dangerous dependence upon the pleasure of the popular branch of the Legislature. I am aware too that the greatest embarrassments are felt in conducting the Government of that Province, from the refusal of the Assembly to place the civil establishment on any other footing. There may, no doubt, be other points also, on which the Assembly of Lower Canada, consisting principally of people of French extraction, and Catholics, exhibit at least an indifference to objects which in a British Colony it is desirable to advance, and cherish prejudices which confine them to a narrow line of policy and make them hostile to improvements which would advance the welfare of the Colony, and render it a more important part of the British Dominion.

Of these inconveniences it is impossible to say decidedly, until they are more specifically pointed out, how far they might be expected to be removed by an Union of the Legislatures, but as to that first mentioned, namely, the embarrassment felt at present in Lower Canada from the refusal of the Legislature to make a more permanent provision for the Civil List, I confess, I do not see that it would be removed by such a measure, for supposing the Canadas to be joined according to their present scale of

representation, if every Member from Upper Canada should consent to a permanent provision for the Civil List, it would still not be carried, and without expressing any opinion upon the question as it now stands in Lower Canada, I do not by any means think it safe to anticipate that the Members from Upper Canada, would generally support the provision in the terms in which it was required to be made. As to any inconvenience that may be felt from the entire preponderancy of a French Canadian interest in the Legislature of Lower Canada, I do not see that the certainty of their being counteracted by an Union, is either near enough or clear enough to make it adviseable on that ground. It would be long before the influence of the Members from Upper Canada would be an overruling influence, and I think it doubtful whether, when it did become so, they would be disposed to exert it in changing the internal municipal policy of the other Province, contrary to the wishes of nine tenths of its inhabitants, and which, whether wise or not, was endeared to them by long use, and had been so far respected by the British Nation that they had been hitherto left to change, or retain it, as they might prefer.

That an Union of the Provinces might add to their strength, by producing a more perfect community of interest and feeling, by subjecting their Militia to an uniform system of discipline, and by placing their means of defence against a foreign enemy more conveniently and effectually at the disposal of the Government.—That it might in time by the gradual operation of the natural consequences of such an union, make the whole Colony more completely British in their system of Laws, in their education, in their feeling, and in the general temper of all their public acts—that it would produce an uniform regulation of trade throughout the territory, and insure the interest of every part being made sub-servient to the welfare of the whole, and that it would necessarily put an end to all future difficulties about duties and drawbacks, by sharing among all the enjoyment of that in which they have all an interest, are general advantages, which though some of them are rather indefinite as to the extent, and uncertain as to the period in which they mightbe felt, might, I think, be rationally expected.

On the other hand, I am doubtful of the prudence of disturbing the present system of things in the prospect of these rather indefinite and distant advantages, and at the hazard of the inconveniences,which have suggested themselves to me, and which I will shortly state.

At present things are proceeding pleasantly and prosperously in Upper Canada. In Lower Canada they are not, but I do not think an Union would remove in the least the difficulties existing there, and it might have the bad effect of involving the one Province in the troubles of the other.

The number of representatives in Upper Canada is at present less than in the Lower Province, and would no doubt continue so for many years. The latter consists, with very few exceptions, of Canadian French, and I am apprehensive that an Union of the two Provinces would be regarded with such extreme jealousy and repugnance by the great body of the people in Lower Canada, that on future occasions they would even more studiously endeavor to exclude Englishmen from their Assembly, and confine their confidence to those who would sedulously guard their old system of things from innovation, and for many years I fear the people of Upper Canada would find it difficult to obtain any appropriation of Revenue to purposes of public improvement within their Province, or to gain sufficient attention to their local interests from an Assembly of whom the greater number would be unfriendly to their religion, and unacquainted with their laws, and jealous of their influence. If these consequences should follow, they would retard the now rapidly increasing prosperity of Upper Canada at the most critical moment. Perhaps the apprehension is groundless, I state merely my own impression. Upper Canada, it is true, contains at present a much less population than the Lower Province, the one having been first settled by Europeans only forty years ago, and the other more than two hundred; but it is well known, that in extent of land capable of cultivation, in the excellence of its soil, and climate, and consequent capability of production, the former possesses almost unrivalled advantages, and it would be much to be lamented that these should be prevented from developing themselves, by being placed under the control of persons little acquainted with our agricultural interest, and even averse to the system of tenures and of laws under which the Province has so surprisingly flourished.

That it would be thus controlled, at least for many years to come, I take to be certain, especially if the Legislature should be convened at Montreal, for I fear in the present state of Upper Canada, it would be difficult to find Gentlemen who could so completely abandon their own pursuits, as to attend an annual Legislative Session of three months, at so great a distance from their homes. It could not be expected that the attendance of Members from the Upper Province would be by any means so numerous even in proportion, as from the Lower, and I see great reason to apprehend that in any question in which the interests of the two Provinces may come into competition, such for instance as the proportion of Revenue to be expended in Upper Canada, there would be little chance for some time to come of a fair decison. I fear this the more from the conviction that the mass of the people of Lower Canada would feel extreme annoyance at the Union, looking upon it as a scheme to give to the English population an undue ascendancy, and would be for some time little disposed to unite cordially with us, for getting all distinctions.

It perhaps deserves also to be considered how far it is politic upon National grounds, to unite two Colonies now distinct, thereby involving on all occasions the politics of one with those of the other, giving to them the means of

making common cause in any unfortunate dissension which might arise, and rendering any disagreement, a cause of irritation and of difficulty in two Governments, whereas otherwise it might but affect the tranquillity of one.

Several other considerations of less importance naturally suggest themselves, in weighing the probable consequences of an Union of the Legislatures. My desire has been to state such as appeared most worthy of notice, and in doing this, I beg not to be understood as presuming to speak the sentiments of the Government, or of the Legislature of Upper Canada, for I am neither authorized nor prepared to state their opinions upon the expediency of an union, which was never, within my knowledge, contemplated by either.

The representations from that Province with which I am charged, were not intended, I am certain to point specifically to that end, and indeed, the measures which I have taken the liberty of proposing, and which are under the consideration of His Majesty's Government, are wholly of a different nature. I cannot even pretend to say how far an Union would be agreeable to the people of Upper Canada generally. I have reason to think the majority of their present representatives are unfavorable to it, from a conviction that it would not be beneficial, though some of that body, for whose opinion I have much respect, think otherwise. I will take the liberty of remarking further, that the Act by which the Province of Quebec was divided, and the present separate Governments established, was the result of great and long deliberation, and if the change of system so matured should prove disagreeable to the inhabitants of both or either of the Provinces, it may be expected that they will feel more deeply in proportion as it shall appear to have been hastily decided on, and without an opportunity having been afforded them of making known their sentiments. The people of Canada have been ever treated by Great Britain with a mildness and a degree of parental indulgence that would make them the more sensible to any apparent want of consideration even of their feelings. Another matter occurs to me upon which it is necessary to guard against any erroneous impression. The French inhabitants of Lower Canada, I am firmly persuaded, are as peaceably disposed, as much inclined to submit to authority, and as loyally attached to the British Government, as any portion of His Majesty's subjects, and whatever trouble their Representatives may give by refusing to make a permanent provision for the Civil List, or upon questions of Revenue, or of any kind between themselves and the Executive Government, is not to be ascribed to the preponderance of French influence over the English, but to that desire which is found in all Assemblies to assert to the utmost the share of power which they think the Constitution gives them, a disposition which I think the descendants of English, Irish and Scotch will be found as likely to persevere in, as the descendants of Frenchmen. It is not my desire by any thing I have said, to lead to a conclusion that the Legislatures should not be united, unless that inference shall appear to be the sound deduction from the considerations I have stated. I have set down what presented itself on both sides, anxious only that the decision may be made on sure grounds, and not formed upon erroneous conceptions, or expectations which are not likely to be fulfilled.

A True Copy.

(Signed) G. Hillier.

COPY.

London, August 27th, 1822.

Sir,

I have the honor to report to you, for the information of His Excellency the Lieutenant Governor, that the Bill which His Majesty's Government had determined, previously to my letter to you, of the 16th May last, to propose to Parliament, and of which I communicated to you the heads, was submitted to the Law Officers of the Crown, whose consideration of it necessarily occupied some time, and retarded its introduction, and the Secretary of State for the Colonies having in the mean time deemed it adviseable to incorporate with this Bill, the provisions for regulating the inland intercourse of the Canadas with the United States of America, which the change of system lately adopted with respect to the trade of the British Colonies, rendered necessary, a further delay was occasioned, and near the end of the month of May, the Bill, embracing these regulations of trade, and the several enactments of which I had sent you the heads, was brought into the House of Commons, by Mr. Wilmot, the Under Secretary of State for the Colonies.

The extreme pressure of business before Parliament, occasioned the postponement of its subsequent stages, from day to day, but as soon as it could be again taken up, it was read a second time without opposition, and passed through Committee, and at the instance of His Majesty's Government, it was ordered to be recommitted on a day as distant, as the advanced period of the Session would admit, and in the mean time to be printed. One of the copies of the Bill thus printed for the use of the Commons, I have lately sent to you. Upon the discussion which took place after this delay, several members objected strenuously to the immediate passing of that part of the Bill which provided for the Union of the Legislatures, on the ground that it did not appear that the people of the two Provinces were aware that so great a change was contemplated, and that they might have objections to offer, which, whatever might be the decision upon them ultimately, it

was contended they ought to have an opportunity of urging. The expediency of the change proposed, was not denied in the discussion, and it was affirmed by those who interceded for the delay, that admitting the Union to be expedient, the terms on which it was proposed by the Bill to effect it, appeared equitable and proper. The objection went only to the inexpediency of passing a Bill at the late period of the Session, effecting an important change, of which it was alleged there was nothing before the House to prove the necessity,—which had not been solicited on the part of either of the Provinces,—and to which it was possible, one, or both of them, might be very much opposed. These objections were over-ruled by a great majority of the Members present, but upon a subsequent discussion which took place on the 23d of July, His Majesty's Ministers, finding that those who had objected to passing during the present Session those clauses which respected the Union of the Legislatures, persevered in their opposition, on the ground they had first taken, declared themselves unwilling to press the measure, finding it did not meet, as they had expected it would, with the general concurrence of the House, and proposed themselves, what had been suggested on the former debate, that so much of the Bill as related to the Constitution of the Canadas, should be separated from the rest, and be brought in as a separate Bill, and should pass so far through its ordinary stages, as to admit of its being printed, in order that it might lie over for consideration, and an opportunity be afforded to the inhabitants of the two Provinces, to make any representations they might desire. It was expressly declared, however, by His Majesty's Ministers, that as they were entirely convinced of the expediency, and even of the necessity, of the measure, they only deferred it for the present, lest the opposition which had been unexpectedly given to it, though only with respect to the time of its passing, might excite a prejudice against the Bill, in the minds of the people of Canada, and induce them to acquiesce less cheerfully than they otherwise would, in any practical inconveniences which might at first be felt from the change. That they would therefore give time for an expression of opinion, but that they would proceed with the measure the next Session, unless some good grounds should be shown for supposing that the Union contemplated, would be injurious to the great interests of the Provinces. That though they acceded to it, they regretted the delay of a measure which appeared to them the best calculated to remove all future differences between the two Canadas, and to promote their ultimate security and prosperity, and which they thought, had it passed as they anticipated by the unanimous voice of the British Parliament, would have been received with the same conviction by the Provinces themselves. With this declaration of their present impression, and of their intention for the future, they moved that the Committee should be instructed to divide the Bill before the House into two parts, and that the first, comprehending the proposed Union, should be proceeded in no further, at present, than the second reading, that it might be printed, and lie over to the next Session. The latter part of the Bill, embracing the provisions for regulating the inland trade of the Canadas with the United States, and the several enactments for investigating and settling the claims of the Upper Province upon the Lower, and respecting the future distribution of the duties to be levied in the latter Province, upon importations by sea, (of the urgent necessity of which enactments, as well as of their justice, the House declared themselves satisfied,) was on a subsequent day reported by the Committee.

The postponement of the proposed Union of the Legislatures, and the possibility of his Majesty's Government, on further consideration, relinquishing the measure entirely, (which supposition however I have not the slightest ground for entertaining,) rendered it necessary to provide in the Bill about to be passed, against the recurrence of future inconvenience to Upper Canada from the Acts of the Legislature of the Lower Province, which would not have been necessary, or which could not consistently have been done, had the Legislatures of the Canadas been united. I therefore submitted the clauses numbered 28 and 29 in the Act, as it has passed, nearly in the terms in which I had first proposed them in the draft which I laid before Earl Bathurst, previously to the measure of uniting the Legislatures being resolved upon by His Majesty's Government. The necessity also of protecting the exports of Upper Canada against taxation, direct or indirect, by the Legislature of Lower Canada, which is much insisted upon in the Report, impelled me to press for the adoption of the Clause No. 30 in the Act, and I accordingly submitted it to the Under Secretary of State, with the explanations contained in my letter to him, of which a copy is sent herewith, marked (A.) Objections were called for, and urged in writing on the part of Lower Canada, against this clause, as against the enactments before proposed, and Earl Bathurst, having decided upon the reasonableness of affording the protection, it was submitted, and passed by the House.

With these and other amendments rendered necessary by the division of the Bill, it passed through its subsequent stages, and was assented to on the 5th of August, the clause respecting tenures of Lands in Lower Canada, having, at the suggestion of several Members in the House of Commons, been incorporated with it, as being one of unquestionable benefit, and not connected with the measure of uniting the Legislatures, nor requiring on that account to be postponed.

I now transmit to you, to be laid before His Excellency, the Act which was passed, with such explanations as occur to me, stated in the paper marked (B.) and also a copy printed for the use of the House of Commons, of the Bill for uniting the Legislatures, which it is intended to propose again in the next Session of Parliament.

With respect to the first, I am confident in my expectations, that the provisions it contains for

adjusting the Claims of Upper Canada, and for preventing future injury to its trade or Revenue, by the Acts of the other Province, will be acceptable to His Excellency, and satisfactory to both Houses of the Legislature, as they confirm in all respects the principles contended for, and afford, as nearly as possible, the remedies recommended by their Report. The pleasure I feel at the successful issue of exertions which have been necessarily attended with much anxiety, from my impression of the value of the objects contended for, greater even with respect to the future than the past, would be much lessened, if I did not think every one of the provisions, perfectly reconcileable with the just rights, and by no means injurious to the fair interest, of Lower Canada; and even with this conviction on my mind, it is a strong additional source of satisfaction, that not one of these measures was decided upon, or even discussed or proposed, before his Majesty's Government, but in the presence of Gentlemen, who though they were not accredited Agents of Lower Canada, were from their situations, and their experience in that Province, perfectly acquainted with its interests, and well qualified by their talents to represent them; and that objections from these persons to the Claims of Upper Canada, were not only received, but called for.

With respect to the Bill for effecting the proposed union, His Excellency will readily understand, from my former communications, how much I have been relieved by the manner in which it has been disposed of, as it will afford to the People of both Provinces, an opportunity of considering before hand, the probable consequences of a very material change in their constitution, which with all the reflection I have been able to give it, I confess I should be extremely sorry upon my own judgment, unaided by the opinion of those equally interested in its operation, to be in any degree instrumental in promoting or defeating. On the one hand, had my first impression with respect to the policy of uniting the Legislatures, been other than it was, I should not have ventured, (especially in the particular situation in which I stood) without being instructed, and even without being acquainted with the sentiments of His Excellency, or of the Legislature, or the people of the Province, to urge a measure of so important and delicate a nature. On the other hand being the bearer of an appeal from the Legislature of Upper Canada, which stated injuries resulting from the present relative situations of the two Provinces, which it was declared must be ruinous if suffered to continue, and for which an entire reliance was expressed in the wisdom of His Majesty to provide us a remedy, I felt that I should be acting most inconsistently with the situation in which I stood, if without instructions, and merely on my own idea of their unfitness, I should fly in the face of the measures which His Majesty's Government proposed as most likely to yield us the security we desired, and which, for all I knew, might appear in the same light to most of the inhabitants of the Provinces. It appeared to me clearly that I could do no more than to press respectfully the adoption of other measures which appeared to me preferable, and to state plainly to the Government, the result of my own consideration as to the inconveniences which might be apprehended, and the benefits which might be safely anticipated from an union, and this I did as fully as was in my power, not merely in a written paper in which what occured to me was necessarily thrown together hastily, and on the first impression, but also verbally, on all occasions in which I was consulted. Indeed, the ready access afforded to me, and to all who manifested any interest in the affairs of Canada, while these measures were under discussion, and the unreserved personal communications, with which we were honored by Earl Bathurst, and by the Under Secretary of State, prevented the necessity of a written correspondence. When His Majesty's Government, after hearing all that could be urged, resolved to propose the Union, and when I knew that many members of the House of Commons who frequently opposed the measures of the Government, were supporters of this, and that there was every reason to believe it would meet with general concurrence, I perceived clearly, that unqualified opposition on my part, had I thought the measure decidedly called for it, besides being fruitless, and in the character in which I stood, unwarranted, might have embarrassed and rendered ineffectual my applications upon the other points, and would have deprived me of the opportunity of interceding for those modifications of the proposed union, which if the Bill should pass, will secure the interests of Upper Canada, I think, in the most important points, as much as they can be secured under the change of circumstances, and which perhaps may in the opinion of its inhabitants render the measure ultimately beneficial to the Province, and reconcile them to any present practical inconveniences that cannot be avoided.

It may be satisfactory to His Excellency (inasmuch as I may be supposed to have been governed by instructions received before my departure) to learn that the line of conduct which I had pursued with respect to the union was distinctly stated by the Under Secretary of State in the House of Commons. In answer to a suggestion expressed by a member that it was a measure urged by Upper Canada through its Agent, in opposition to the interests and wishes of Lower Canada, he corrected the misapprehension, by declaring that it originated entirely with His Majesty's Government, and was not at the instance of either Province, that so far from soliciting it on the part of Upper Canada, I had resisted it in its introduction, and had never urged it publicly or privately, that I had afforded every information required of me, and had stated merely my own impression as to the arguments for and against it. What may be the opinion entertained in Upper Canada upon the policy of the Bill as it now stands, I am altogether at a loss to anticipate, and now that an opportunity is afforded of judging of it, with all its details, it is unnecessary that I should express my own, because it is no longer of consequence. It is due, however, to the confidence reposed in me, to state every thing within my knowledge which may give to the Province, the

full benefit of the delay which has occurred, and I will therefore add that it appears to me, His Majesty's Government remains as strongly impressed as ever with the conviction that the contemplated union would very much add to the importance, and promote the prosperity of both Provinces, and that I have therefore no doubt as to their present determination to press the Bill during the next Session. And as it must be obvious that neither the Government nor the Parliament of this country can be influenced in their adoption of the measure by any other possible motive than a desire to advance the welfare, and increase the value of the Colonies, so it must be expected that if notwithstanding any objections which may be urged, it shall appear that the union will be greatly beneficial to the two Provinces combined, an apprehension of slight practical inconveniencies to either, or a more general repugnance to the measure not accounted for on rational grounds, will not be suffered to prevent it. I state this in order to impress my conviction that it will be important principally to consider the permanent consequences, and the balance of good or evil, likely to arise, and I should feel it great injustice to His Majesty's Government, not to add an assurance, from my own experience, that representations upon these subjects, respectfully urged, will be sure to be patiently received, and most scrupulously weighed.

As to the probable determination of Parliament upon the measure, I can only state, that I attended the discussions upon the Bill, and that I heard no opposition whatever offered to the principle, but that the expediency of uniting the Legislatures seemed to be the prevailing opinion, and that had the Government pressed it the last Session, the number of those who resisted on the ground of time only, was by no means sufficient to have prevented the Bill passing. I mention those facts that they may assist in forming a judgment of the probable issue of the measure. It was suggested in discussion in the House, that witnesses should be examined at the Bar, as in the year 1791, and either Province heard by Counsel, if it requested it. What steps the Province of Lower Canada may take, I cannot conjecture; some few merchants here, connected with that Province, petitioned at a very late period of the Session, in favor of the Bill, and their petition has been ordered to be printed. Other gentlemen of the same class, preferred a remonstrance to His Majesty's Government against it; and Mr. Marryatt a Member of the House of Commons, declared that he had received many communications from persons connected with that Province, who were unfriendly to the Union. One thing strikes me as most important to be attended to;—whatever may be the opinion as to the Bill in its present shape, and that is, that if the change does take place, and in consequence of the representations of Lower Canada, it should be effected upon terms which will give to Upper Canada, less influence in the joint representation, or without any of the restrictions interposed to secure its interests, it may have the effect of making the latter Province a mere dependency upon the other, which I cannot but believe would be very fatal to its growing prosperity, and that consequently, it is most important if the Bill should pass, that it should pass in these respects unaltered,

Nothing further occurs to me which it can be of service to state respecting this measure, but it remains that I should entreat His Excellency's earliest attention to the very perplexing situation in which I am placed by its being thus depending. The business which I was deputed to urge is fully accomplished by the Act which I now send out, and nothing remains of those matters with which I am officially charged, which should longer detain me from the discharge of my public duties, in the Province, or from attending to my private affairs, from which a much longer separation will be attended with serious inconvenience and loss, but feeling deeply the interest which attaches to the approaching discussion, it appears to me that tho' the confidence of the Government and of the Legislature was reposed in me for other purposes which are fulfilled, I must in this unforeseen state of things, consider myself so far the Public Agent, that I cannot, at least without the sanction of His Excellency, withdraw myself from this country, before the measure is disposed of, in the result of which, and indeed in its minutest details, the future political state of the Province, and consequently its welfare and its happiness are so deeply concerned.

To attend to the further progress of this measure, as representing the interests of Upper-Canada, involves a responsibility which I would most willingly see committed to other hands, but which if possessed of the confidence, and informed of the sentiments and wishes of the Province, I could not properly decline, and from which at all events, I should feel it a reproach to fly. It would be very gratifying to me to assist in the deliberations to which the agitation of this question will probably lead, in the Legislature of the Province: but not yet determined what course to take in a situation which many considerations concur to render very embarrassing, I have endeavored in this and former communications, to put His Excellency in possession of all the information which I could communicate, were I present, either respecting the Bill depending, or the Act which has been passed. I forget whether in my note written hastily to you immediately on my perceiving the probability of the present result of the discussion before the Parliament, I made any observations on the situation in which it placed me. If in the satisfaction I felt in the prospect of that result, such a consideration did not so immediately occur to me, I think it will not have failed to suggest itself to His Excellency, and I earnestly hope I may receive some communication from you, in answer to that note, which may put me in possession of His Excellency's sentiments on on that head. If not, I take the liberty of begging to be favored with them as speedily as possible, in reply to this letter. In the former case the communication would certainly arrive in time, and in the latter, it possibly might, to enable me to return to Canada, so as to attend the Session of the Legislature at the ordinary pe-

riod, if His Excellency should think I might with propriety leave this Country.

I have the honor to be
Sir,
Your most obedient
Humble Servant,
(Signed) John B. Robinson.

To
Major Hillier,
Secretary to His Excellency
Sir P. Maitland, K. C. B.
Lt. Governor, &c. &c. &c.

COPY (A.)

July 21th, 1822.

Sir,

I now submit to you the clause respecting duties imposed in Lower Canada, upon Scows, Rafts, &c. passing from Upper-Canada, through its waters, upon which I spoke to you yesterday.

Being entirely prospective, it was unnecessary to propose it while the measure for uniting the Legislatures of the Provinces, formed part of the Canada Bill. In addition to what I have already urged on this subject, I beg to refer to pages 39 and 40 of the report of the Legislature of Upper Canada, in which the rates in question are complained of, and to page 50 for a copy of the Act by which they are imposed, and by which it will be seen that those rates are very considerable in amount, and that as they are raised solely by the Legislature of Lower Canada, so they are to be expended solely at its discretion.

I will only add that flour and lumber are the principal exports of Upper Canada, the former of which is sent down the Saint Lawrence in scows, the latter in rafts and cribs, and that chiefly upon these exports of Upper Canada, in their way to Great Britain, or to foreign markets, a sum has been levied under this Act, which two years ago had accumulated to £5000, and which remained in the Treasury of the Lower Province unexpended, as appeared by the Public Accounts, printed by order of its Legislature. It is scarcely credible by any but mercantile men, how seriously impositions of much less amount than these upon the staple articles of a country, may operate to the prejudice of its trade, especially in the present period of low profits and uncertain markets, and it is incorrect to imagine that the consumer who ultimately pays them, is the only person damnified. They are deductions from the profits of the exporter, or rather, in the present depressed state of trade, they add to his loss, and when our flour can scarcely find a market, and our timber, since the late regulations, can with difficulty be brought into competition with that from the Baltic, the addition of these rates, particularly that of 7s. 6d. upon every crib of timber, becomes a consideration of very serious moment, to say nothing of the necessity of protesting against a principle, which would place our Province entirely at the mercy of the other. I do hope, therefore, that his Majesty's Government will see the expediency of adding the proposed clause to the Bill, as it has no retrospective operation, and goes merely to prevent in future such taxes being levied upon the people of Upper Canada, under any pretence, leaving the improvement of the navigation, an object equally interesting to both Provinces, to be provided for by such means as they may both concur in.

I have the honor to be,
&c. &c. &c.
(Signed) John B. Robinson,
Comm'r. from U. Canada.

To
Robert Wilmot, Esquire,
Under Secretary of State,
&c. &c. &c.

(B.)

The two Acts recently passed for "regulating the trade between His Majesty's possessions in America and the West Indies and other parts of the world,"
No. 1
No. 2 And "for regulating the trade between His Majesty's possessions in America and the West Indies, and other places in America and the West Indies," place the Commerce of the North American Colonies on the most liberal footing. By the first a direct trade is opened to our shipping with all foreign Countries in Europe or Africa, and it will be found that the list of articles to which the trade is restricted, embraces almost every production which we could desire to import from those Countries, since whatever this Kingdom manufactures could not be procured by us of so good quality or so cheaply elsewhere. Our trade henceforth, with foreign Nations is open to us as freely as to our fellow subjects of the United Kingdom, with this advantage over them, that the wines or other merchandize we may import from them, are not subject to the same heavy impositions. What we can find to send in return is another consideration, upon which must depend the extent to which we can avail ourselves of these advantages. An opportunity is given if we can improve it. I learn that by another Act passed this Session, the same privilege of trading to the East Indies which has been given to private traders of the United Kingdom, is with the same exceptions extended to the Colonies. The circumstances of the Colonies may for some time render this privilege of little value, but while we are placed on the same footing as other British subjects, we cannot complain.

While these measures were in progress, I had some conversation with the President of the Board of Trade, on the present state of the trade in Canada, with respect to the article of Tea, which is too notorious in both Provinces, and suggested that little injury would arise to the East India Company, and much good to our own Revenue, if we could be allowed to import Tea directly from the East Indies, or through the United States, on payment of a certain duty. It was too late in the Session to propose a measure, which, as it would be in direct violation of the Company's Charter, could not during the

existence of it, be brought forward without their acquiescence, but it did not appear to me from what was said upon the subject, that an application would be hopeless, if urged in time to admit of its being well considered, and I am inclined to think that it would be liberally entertained by the Government. I mention this that it may be thought of.

It will be seen that by the first Act, different British Statutes are repealed, of which the Policy was to promote the trade of the Canadas, by allowing the exportation from thence to certain parts of Europe of the productions of the States brought by land or inland navigation, without requiring certificates of origin, or in other words to make, so far as those statutes extended, the outlet for the productions of the Northern States, but it may be seen by the second section of what may be called the present Colonial Europe Trade Bill, that they are only repealed to make way for what would appear a general extension of this policy, for by that section it is lawful to export from the Colonies direct to any foreign Port in Europe or in Africa &c.&c. "any article the growth, produce, or manufacture of any such Colony, or any articles which have been legally imported into any such Colony"—And such undoubtedly would be the beneficial effect of that Statute, if it stood alone, but it will be seen that the Act, for "regulating the Trade between the British possessions in America and the West Indies, and other places in America and the West Indies," and the Act ch. 119 for regulating the inland Trade between the Provinces of Upper and Lower Canada and the United States of America, have the effect of destroying this policy altogether, in as much as the principal productions of the United States cannot, since those Acts, be imported from the United States, through any channel into the Canadas without being subject to considerable duties. And therefore in this respect the trade of the Canadas is placed on a worse footing in principle at all events; I hope not at present very materially so in practice. To avoid this if possible, I suggested to the President of the Board of Trade, the expediency of allowing both Provinces, to continue as they have done, to admit the productions of the United States by inland navigation free of duty, or otherwise, as they might think most adviseable, because, as the duties imposed by the Act No. 2 on the importation of those articles by sea, from the United States into the West Indies and other Colonies, were meant solely and expressly for our protection, and to encourage the agricultural productions of our Provinces which were common with those of the United States, it was not necessary to protect ourselves against ourselves, and *we* might safely be allowed to judge whether the free admission of American flour, timber, &c. into our Provinces for exportation might not be beneficial to our trade, without being injurious to our agriculture. And I suggested that by allowing such importation we might, by exporting the productions of America with our own, be enabled immediately to supply the West Indies entirely, and might carry on a more extensive trade with other parts of the world. The answer, however, was a very obvious, and I admit a very just one,—The West Indians, it was said, would justly complain if the price of the necessaries of life was raised upon them, to enable us to dispose advantageously not only of our productions, but of those of foreign Countries. And if the productions of the United States, brought by internal Navigation into the Canadas were not made subject to the same duties as when imported into the other British Colonies, the Americans would complain that the relaxation professed to be made in the Navigation Laws for the benefits of a recipr cal commerce would be but partially extended, and would be rendered in a great measure nugatory, by their productions being, when carried direct in their own shipping to our West India Islands, made subject to heavy duties, and admitted in the same Islands, free of duty, if introduced by our shipping by a circuitous importation. That would indeed be the direct effect as the West India Bill now stands, for the enumerated articles are subject only to duty when brought from a foreign Country,—and, if the wording were otherwise, evasions would be unavoidable. Besides the other North American Provinces might claim the same privileges for the same reasons—that we should desire it, and if extended to them, it would lead to their supplying the West India markets with American flour, to the exclusion of that produced in Canada. I have been the more explanatory upon this subject, because perhaps it is the most important, and it may be of consequence to call the attention of the Legislature to these matters which are necessarily better understood by most others in Canada, than by myself.

81 G. III. c. 97.
86 G. III. c. 29.
87 G. III. c. 4.

No. 2

The general change in the system of the Navigation Laws introduced by the "Act for regulating the trade of the British possessions in America and the West Indies with other places in America and the West Indies," is a great national measure, prompted chiefly by the present deplorable state of the West India Islands, which the Planters attributed, too much perhaps, to the interruption of intercourse with the United States of America, by the retaliatory system which that Country had adopted. Every disposition has been shewn to secure us against injurious consequences by the imposition of protecting duties on such articles from the United States, as are equally produced in Canada. Efforts were made by those interested in the Canada Trade, to have those duties placed as high as possible, but duties so high as to be nearly prohibitory, would have been in direct opposition to the principles and professed policy of the Bill. The West Indians on the other hand exerted themselves strenuously, and most naturally, to have the duties *low*, as they are principally on articles of the first necessity, and, whatever their amount, are direct sacrifices made by them to the interests of other Colonies. The Parliament endeavored to fix upon the just medium, and though I imagine it was felt that the duties are scarcely sufficient to compensate the difference of transport, and to place our productions on equal terms with the Americans in the West

No. 2

India Markets, they are as high as could be obtained, or as would be patiently acquiesced in, and therefore are the more likely to be permanent. It will be seen that care is taken to guard against the introduction of American grain bonded in England into the West Indies, except upon the same duties as if imported from the United States.

The omission to impose a duty upon Indian corn meal was accidental, and it is intended to remedy it next Session. It was suggested that a duty should be imposed upon Rice, as it very much supersedes the consumption of flour, but it was not considered just to protect the productions of the Canadas, by imposing a duty upon other articles of equal and perhaps of greater necessity, which they do not produce. Wheat it seems cannot be sent to the West Indies and therefore no protection in regard to it was thought necessary. It is to be considered how far the omission of a duty on wheat can consistently with the letter of the Act admit of a trade in American flour through the Canadas, by importing the wheat and manufacturing it in the Provinces.

I have mentioned such matters as occur to my recollection respecting the two Acts regulating the Colonial trade generally, because Upper Canada is more or less interested in both, and because, as it is just to state, every opportunity was afforded to me to make suggestions while they were in progress.

Upon the Act for "regulating the trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces," which more directly concerns us, it will readily occur that it might have been more desirable for the Provinces themselves that no provisions had been made with respect to the Inland Trade between them and the United States of America, and that they had been left to regulate it by their own enactments, as they have hitherto done. But as it would have been envidious towards the other Colonies to exempt these in any manner from the operation of the general system, so, for other reasons which I have before stated more particularly, an uniform system was so far insisted upon as to extend the permission to import into Canada, by inland navigation by American ships as well as British, or by land carriage, to the same articles, and upon the same duties as are enumerated in the Schedules to the West India Trade Bill, and consequently the Schedules are the same in both for the sake of uniformity, although they are not so applicable to the nature of the trade in the one case as in the other. I should have been happy if the application of the general system to the inland trade of the Provinces, and at least with respect to the duties could have been dispensed with, but I do not consider the failure in this respect of much consequence. It will be seen that the Colonial Legislatures are not restrained from adding to the duties imposed by this Act, so that it is still in their discretion to protect their own agriculture by prohibitory duties upon American productions if they deem such a policy wise. It is only provided that not less than these duties shall be levied. Higher Duties even now existing are not repealed. This will be seen in the 3d Clause of the Act, and in the West India Act the same provision is extended to all the Colonies.

The greatest difficulty I experienced, was to prevent the inland intercourse between the Canadas and the United States from being limited, as the Trade is, in an expressed Clause in the General Colonial Act, to the articles enumerated in the schedule which, considering the peculiar situation of Upper Canada, so far from the Ocean, would have been most ruinous; for henceforth all the Salt, Iron Ware, Mill-stones, Machinery of all kinds and every cumbrous article, must have come up the St. Lawrence at an expense greater than their present value, and we should have been precluded from getting a multitude of trifling articles which from our contiguity to the United States we find it convenient to get from thence, and by which the trade of Great Britain is in no degree injured Upon this subject, I made frequent representations, and it was at last placed on the desired footing, so that it will be found there is nothing in the present Act to prevent our getting other articles from the United States than those enumerated, upon such terms as we please, subject however to the restriction of the Navigation Laws, THAT they MUST BE IN BRITISH BOTTOMS, for it is only with respect to the enumerated articles that that restriction is relaxed. And it is very material that the operation of the Act in this respect should be distinctly noticed, because the necessity conceived for express enactments to allow the partial relaxation of the Navigation Laws upon the inland waters, shews the construction of the Parliament upon their general application to such navigation, no less than the particular clause in which they are expressly adverted to. There was formerly, indeed, under the words of 7 and 8 William and Mary no room for doubt, but now it is placed beyond the possibility of dispute, that no articles can be imported into the Ports of Upper or Lower Canada in American bottoms, except such as are in the Schedule, nor any carried from Port to Port in either Province in such bottoms, though it will be seen in the 10th Section of the bill that *all* articles may be *exported* from our Ports to the United States in American bottoms, as in other Colonies by the West India Act, for it was intended that our inland intercourse with the United States should not be subject to any restriction, which had been relaxed in the other Colonies, and whether it would be prudent that that intercourse should be freed from the restrictions which still remain, (I mean as to carrying in foreign bottoms,) is a question of policy on which there may be different opinions, and on which the sentiments of the Colonies themselves would, I dare say, receive attention. In the mean time the effect of the Acts is as I have stated it, and it is necessary it should be clearly understood.

The reason of the other regulations of trade in the Canada Act are sufficiently explained in the several enactments.

The provisions for adjusting all question of Revenue between the Provinces, scarcely require explanation, as the reasons are sufficient

ly recited, and the subject has been already so much discussed, but a fear they may be misapprehended induces me to make a few remarks.

The Claims for arrears of Provincial duties up to the expiration of the last agreement, is confined to such as arise under the several agreements themselves, for it is considered just by the Government, and was conceded by our Commissioners at the last meeting, that the agreements must be considered final for the periods to which they refer, and that it is only to be enquired whether they have been performed or not, an enquiry which is extended to the "fair understanding and construction" of the agreements, by express words in the Act. As to the proportion of duties under British Acts of Parliament, it will be seen that it is perfectly open to Upper Canada to state any claim to the Arbitrators, and to adduce evidence, except with respect to such period as has been provided for by agreement, which is only that included within the agreement of 1817, but the decision of such claim must rest with the Lords of the Treasury. It was objected to leave any *principle* as to the distribution of those duties to the decision of the Arbitrators, and I concur in thinking that the present arrangement in that respect is most proper.

I suggested for consideration the propriety of an Appeal to the King in Council, or to the Lords of the Treasury, from the decision of the Arbitrators, where they are authorised to *decide*, but it was thought it would be inexpedient, and I apprehend it would certainly have led to delay, for one party or the other would have appealed, and both have an equal chance of Justice before the Arbitrators.

The 33rd Clause was inserted upon a suggestion while the Bill was in progress, and of course can be no otherwise objectionable than as it is merely nugatory, because there are but three things which Arbitrators can ever be called by the Act to consider. 1st Claims for arrears, of which Lower Canada never pretended to have any, and indeed it is impossible she should, as the agreements necessarily only provide for the payment of a proportion to us by that Province, as the Receiver in the first instance of the whole. 2ndly—To declare for the time to come what proportion we shall have of the Provincial duties levied on importations by sea, and on this head it is impossible Lower Canada can have any claim, because she holds every thing till it is decided what part she is to pay us, which is the only question. 3rdly—To receive claims to the distribution of duties under British Acts, and report them for the decision of the Lords of the Treasury, and here the possibility of reciprocal claims is supposed, and expressly provided for. However, the Clause does no harm, as it carries the appearance of reciprocity, and if there was room for the reality, it would be but just the provision should exist.

The proportion of one-fifth of the duties levied since the 1st July 1819, is all that would be conceded, as that was the last ratio established, indeed it could not be expected that the Government would propose more, without an actual investigation and evidence of increased consumption, and besides, our Commissioners had offered to accept it. I knew the present state of our finances and the incumbrances upon them would not admit of delay in the receipt now due, and therefore I consented to the one-fifth for a period not later than July, 1824, but it will be found by a careful perusal of the Act, particularly the 27th clause, that it remains open to Upper Canada, to urge a claim to a proportion of the 14th Geo. III. greater than one-fifth, upon the principles explained in the Report, since the expiration of the last provisional agreement, which claim the Lords of the Treasury will decide upon, and that in the mean time one-fifth of those duties also will for the present be received. This provision with respect to the proceeds of duties under the 14th Geo. III. extends generally to the future.

The 19th Clause renders necessary a previous undertaking between the two Provinces respecting the imposition of duties, which it is but just should have place, as both are directly interested.

Nothing further occurs to me respecting these or the remaining provisions of this Act, or the others I have remarked upon. It will readily be supposed many other modifications have come under consideration which, as they were not adopted, it is needless to advert to, but I hope it will be found generally that the different views of the subject were not overlooked.

(Signed) JOHN B. ROBINSON.

LONDON, August 27th 1822.

A TRUE COPY.

(Signed) G. HILLIER.

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